

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

CLARK COUNTY,
Complainant,
vs.
CLARK COUNTY DEFENDERS UNION,
Respondent.

)
) ITEM: 792
) CASE NO. A1-046104
)
) **ORDER**
)
)

For Complainant: Clark County and their attorney Mark J. Ricciardi, Esq.

For Respondent: Clark County Defenders Union (In Proper Person)

This matter came on before the State of Nevada, Local Government Employee-Management Relations Board ("Board"), on December 10, 2013 for consideration and decision pursuant to the provisions of the Local Government Employee-Management Relations Act ("the Act"); NAC Chapter 288 and NRS Chapter 233B.

On October 15, 2013 the Clark County Defenders Union ("CCDU") filed an application for recognition with Clark County. CCDU's application requested that CCDU become the recognized bargaining agent for a bargaining unit of all non-supervisory attorneys employed by the Clark County Public Defender's Office and the Clark County Special Public Defenders Office ("public defenders"). This group of employees had not previously been included in any bargaining unit that is represented by a bargaining agent.

In response, Clark County filed with this Board a petition to challenge the sufficiency of CCDU's application for recognition under NAC 288.143. The basis for the County's challenge was to assert that, in the County's estimation, the public defenders were more appropriately

1 included as part of a bargaining unit that is composed of prosecuting attorneys from the District
2 Attorney's Office and which is currently represented by the Clark County Prosecutors
3 Association ("CCPA"). Following the County's petition, the CCDU filed a cross-petition to
4 appeal the County's bargaining unit determination, NRS 288.170(5), as well as the motion to
5 dismiss now before the Board.
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7 In its motion to dismiss the CCDU raises a number of arguments, including reliance upon
8 a prior order of this Board which established the scope of the bargaining unit for prosecuting
9 attorneys in Clark County and which excluded the public defenders from inclusion in that unit.
10 Clark County Prosecutors Association v. Clark County, Item No. 617, EMRB Case No. A1-
11 045823 (Feb. 1, 2006). Our decision in that case arose out of recognition proceedings for the
12 CCPA. In that case, the CCPA had applied for recognition, but the County declined the
13 application by asserting that the proper bargaining unit should include both prosecuting attorneys
14 and public defenders. We rejected that argument and determined that a unit that was composed
15 only of prosecuting attorneys was an appropriate unit under NRS 288.170(1).
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18 Pursuant to NRS 288.170(5) a decision from this Board which establishes the scope of a
19 bargaining unit is thereafter binding on the local government employer. Thus, we have already
20 addressed and decided this issue seven years ago, and we fail to see any other legitimate basis for
21 the County's petition in this case.
22

23 As our prior decision in Clark County Prosecutors Association requires that public
24 defenders and prosecuting attorneys in Clark County not be combined into a single bargaining
25 unit, the County's decision to combine those two groups of employees into a single unit in this
26 case is in violation of our prior order and cannot be accepted.
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1 Because the County's petition is based upon an action which was foreclosed by our prior
2 order in Clark County Prosecutors Association, the petition will be dismissed. As the same issue
3 is raised in CCDU's cross-petition for appeal of the unit determination, the cross-petition is
4 moot. This matter will be returned to the County to act upon CCDU's pending application for
5 recognition. As our prior order in Clark County Prosecutors Association is dispositive in this
6 instance, we need not address the issue of whether the Deputy District Attorneys are "law
7 enforcement officers" under NRS 288.140(3).
8

9 We also note that NRS 288.170(1) does not permit a local government employer to make
10 a determination as to the scope of a bargaining unit unless it first consults with each of the
11 employee organizations that it has recognized. As we recently stated, this process serves an
12 important function to protect the integrity of the collective bargaining relationships and a local
13 government employer is not at liberty to circumvent this process. Nye County Law Enforcement
14 Association v. Nye County, Item No. 791, EMRB Case No. A1-046062 (Dec. 2, 2013). It is
15 apparent from the pleadings in this case, that the County did not follow this process when
16 making its determination to place the public defenders in the bargaining unit already represented
17 by CCPA.
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19 Having considered the above, the Board makes the following findings of fact and
20 conclusions of law:
21

22 FINDINGS OF FACT

23 1. On October 15, 2013 the Clark County Defenders Union filed an application with Clark
24 County seeking to become the recognized bargaining agent for all non-supervisory attorneys
25 employed by the Clark County Public Defender's Office and the Clark County Special Public
26 Defenders Office.
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1 2. Prior to October 15, 2013 the attorneys employed by the Clark County Public Defender's
2 Office and the Clark County Special Public Defenders Office were not included in any
3 represented bargaining unit.

4 3. Subsequent to CCDU's October 15, 2013 application, Clark County determined that the
5 public defenders should be included as a part of the bargaining unit currently represented by the
6 Clark County Prosecutors Association.

7 4. The County did not consult with the employee organizations that it has recognized before
8 it determined to place the public defenders in the unit represented by the CCPA.
9

10 5. If any of the foregoing findings is more appropriately construed a conclusion of law, it
11 may be so construed.
12

13 CONCLUSIONS OF LAW

14 1. The Board has exclusive jurisdiction over the issues raised in this matter pursuant to NRS
15 288.110, NRS 288.160, NRS 288.170 and NAC 288.143
16

17 2. Pursuant to NRS 288.110(5), the Board may decide a matter without holding an
18 administrative hearing when it has already decided the legal issues and adopts its prior decisions
19 as precedent.

20 3. The Board adopts its decision in Clark County Prosecutors Association v. Clark County,
21 Item No. 617, EMRB Case No. A1-045823 (Feb. 1, 2006) as precedent.
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23 4. Pursuant to Clark County Prosecutors Association, the bargaining unit recognized by
24 Clark County for the prosecuting attorneys does not include attorneys employed by the Public
25 Defender's Office or the Special Public Defender's Office.

26 5. Pursuant to NRS 288.170(5), our decision in Clark County Prosecutors Association is
27 binding on Clark County.
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6. The County's determination to combine the public defenders with the unit of prosecutors represented by CCPA was in violation of this Board's order in Clark County Prosecutors Association.

7. The attorneys employed by the Public Defender's Office and the Special Public Defender's Office may not be placed in the bargaining unit currently represented by the CCPA.

8. In light of our resolution in this case, the cross-petition for an appeal of a bargaining unit determination filed by CCDU is rendered moot.

9. If any of the foregoing conclusions is more appropriately construed a finding of fact, it may be so construed.

ORDER

It is hereby ordered that the public defenders are removed from the bargaining unit represented by the Clark County Prosecutors Association.

It is further ordered that the petition and cross-petition filed in this matter are dismissed on the basis stated herein.

DATED the 11th day of December, 2013.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY: 
PHILIP E. LARSON, Chairman

BY: 
SANDRA MASTERS, Vice-Chairman

BY: 
BRENT C. ECKERSLEY, Board Member

1 STATE OF NEVADA
2 LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
3 RELATIONS BOARD
4

5 CLARK COUNTY,)

6 Complainant,)

7 vs.)

CASE NO. A1-046104

8 CLARK COUNTY DEFENDERS UNION,)

9 Respondent.)

NOTICE OF ENTRY OF ORDER

10
11 To: Clark County and their attorney Mark J. Ricciardi, Esq.

12 To: Clark County Defenders Union (In Proper Person)

13 PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on
14 December 11, 2013.

15 A copy of said order is attached hereto.

16 DATED this 11th day of December, 2013.
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18 LOCAL GOVERNMENT EMPLOYEE-
19 MANAGEMENT RELATIONS BOARD

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21 BY


YVONNE MARTINEZ, Executive Assistant
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YVONNE MARTINEZ, Executive Assistant